

From: Melanie West
To: Karen O'Neal
Date: Fri, Dec 9, 2005 1:31 PM
Subject: RE: Fast-track/Fee increase re: Polygraph Examiners Reg

Hi Karen. Thanks for your email. My understanding is that you would like additional guidance regarding whether it is appropriate for DPOR to use the fast-track regulatory process to promulgate adjustments to fees. The fast-track regulatory process is still relatively new and, actually, DPOR's Polygraph Examiner fee increase proposal is the first time that a proposed fee adjustment has been submitted as a fast-track regulation. This particular fee increase involves doubling the amount, and, in one case, tripling the amount, of fees. The Callahan Act notwithstanding, fee increases of this magnitude appear to be potentially controversial. The Callahan Act (which applies to DPOR and Department of Health Professions) <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+54.1-113> speaks to when an agency/board may begin to promulgate adjustments to fees ("when the account...shows expenses allocated to it for the past biennium to be more than ten percent greater or less than moneys collected on behalf of the board"), however, the agency has broad discretion as to what it considers to be reasonable expenses, e.g., the hiring of new staff, the purchase of new software, developing a new text or exam, professional development activities.

Therefore, in this type of regulatory action, it seems appropriate to provide the public (and regulated community) with the usual opportunities to participate and receive notice pursuant to the Administrative Process Act and Executive Order 21. Hope this helps, Melanie

>>> "Karen O'Neal" <Karen.O'Neal@dpdor.virginia.gov> 12/09 11:41 AM >>>

No problem, we will get the NOIRA to you shortly. We filed this way based on a discussion with Jay Lagarde several months ago, he felt fee increases were appropriate for the Fast-Track process because of the Callahan Act. Would the Fast-Track process be appropriate if the fee increase was lower or should we plan to put all future fee increases through the regular process?

Karen

Karen O'Neal

Deputy Director for Licensing and Regulation
Department of Professional and Occupational Regulation
3600 W. Broad Street
Richmond, VA 23230
804-367-8537

New e-mail address: Karen.O'Neal@dpdor.virginia.gov

-----Original Message-----

From: Melanie West [mailto:Melanie.West@dpb.virginia.gov]
Sent: Friday, December 09, 2005 11:30 AM
To: Karen O'Neal
Cc: Joyce Hann; Oscar Ozfidan; Rebecca Rowland;
bill.murray@governor.virginia.gov
Subject: Fast-track/Fee increase re: Polygraph Examiners Reg

see attached

CC: Amy Wolstenholme; bill.murray@governor.virginia.gov; Joyce Hann; Lawrence Getzler; Oscar Ozfidan; Rebecca Rowland; Robin Crane